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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,409	09/04/2003	Timothy M. Keiser	98-HSX001-C5	6575

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INNOVATION DIVISION
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NEW YORK, NY 10022

EXAMINER

GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
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3691

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12/13/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/655,409	Applicant(s) KEISER ET AL.	
	Examiner Clement B. Graham	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/17/109.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 180-213 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 180-213 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/10 has been entered.
2. Claims 1-179, has been cancelled and replaced by claims 180-213.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 180-213 are rejected under 35 U.S.C. 103(a) as being unpatentable over Traub et al (Hereinafter Traub , U.S Patent 6, 058, 377 in view of Shepherd U.S Patent 5, 970, 479).

As per claims 180-181, Traub discloses a method, comprising: determining, using a computing device, an initial price of a financial instrument based at least in part on an estimated revenue for a movie, in which the financial instrument represents the movie (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

Traub fails to explicitly receiving an order to buy the financial instrument; receiving an order to sell the financial instrument, determining, using the computing device, an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument, determining, using the computing device, a price of the financial instrument based at least in part on the imbalance; and executing a trade on the financial instrument at the determined price.

However Shepherd discloses the invention encompasses methods and apparatus enabling the management of risk relating to specified, yet unknown, future events by enabling entities (parties) to reduce their exposure to specified risks by constructing compensatory claim contract orders on yet-to-be-identified counter-parties, being contingent on the occurrence of the specified future events. The entities submit such orders to a `system` which seeks to price and match the most appropriate counter-party, whereupon matched contracts are appropriately processed through to their maturity (see column 4 lines 13-67 and column 5 lines 1-24 and column 9 lines 41-55 and column 18 lines 5-11).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Traub to include receiving an order to buy the financial instrument; receiving an order to sell the financial instrument, determining, using the computing device, an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument, determining, using the computing device, a price of the financial instrument based at least in part on the imbalance and executing a trade on the financial instrument at the determined price taught by Shepherd in order to match and trade financial instruments.

Further when buyers and sellers are engaged in a trade of item, the market price is the value of an asset on the price it would demand on an open market, which represent the price the asset the is being bought or sold taught by Shepherd in order to match and trade financial instruments.

Traub and Shepherd fail to explicitly teach revenue for a movie and a financial instrument that represents a movie.

However a estimated revenue for a movie and a financial instrument that represents a movie would be representative of a revenue bond, because revenue bonds are issued by entities or institutions to finance different projects for example bridges, movies, and road projects, and the revenue generated (i. e, estimated revenue”) from motorist using the bridge and paying tolls are committed to paying off the revenue bond, therefore financing a movie is no different than financing bridges because the fees (i. e, estimated revenue”) that is paid by the patrons that attend the movie would be used in paying off the revenue bond that was used to finance the movie .

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Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Traub and Shepherd to include revenue for a movie and a financial instrument that represents a movie, because financing a movie is no different than financing bridges because the fees (i. e, estimated revenue”) that is paid by the patrons that attend the movie would be used in paying off the revenue bond that was used to finance the movie.

As per claims 182, Traub discloses further comprising: attaching a warrant with a strike price to the financial instrument (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 183, Traub discloses 183. (New) The method of claim 180, further comprising: determining that the imbalance exceeds a threshold and stopping trading of the financial instrument based on the imbalance exceeding the threshold (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 184, Traub discloses in which determining the price of the financial instrument comprises:

determining a price increase for the financial instrument based on the imbalance (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 185, Traub discloses in which determining the price of the financial instrument further comprises:

comparing a threshold to the price increase and increasing the price of the financial instrument when the price increase exceeds the threshold (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 186, Traub discloses in which determining the price of the financial instrument further comprises:

increasing a previous price of the financial instrument from a previous cycle by the price increase (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 187, Traub discloses in which determining the price of the financial instrument comprises:

determining a price decrease for the financial instrument based on the imbalance (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 188, Traub discloses in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease and decreasing the price of the financial instrument when the price decrease exceeds the threshold (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 189, Traub discloses in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 190, Traub discloses in which receiving the order to buy the financial instrument comprises:

receiving, from a remote device, the order to buy the financial instrument, in which the computing device and the remote device are in communication over a network (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 191-192, Traub discloses an apparatus, comprising: at least one computing device and a non-transitory tangible medium storing instructions that, when executed by the at least one computing device, cause the at least one computing device at least to, determine an initial price of a financial instrument based at least in part on an estimated revenue in which the financial instrument (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

Traub fails to explicitly receive an order to buy the financial instrument; receive an order to sell the financial instrument, determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument, determine a price of the financial instrument based at least in part on the imbalance and execute a trade on the financial instrument at the determined price.

However Shepherd discloses the invention encompasses methods and apparatus enabling the management of risk relating to specified, yet unknown, future events by enabling entities

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(parties) to reduce their exposure to specified risks by constructing compensatory claim contract orders on yet-to-be-identified counter-parties, being contingent on the occurrence of the specified future events. The entities submit such orders to a 'system' which seeks to price and match the most appropriate counter-party, whereupon matched contracts are appropriately processed through to their maturity (see column 4 lines 13-67 and column 5 lines 1-24 and column 9 lines 41-55 and column 18 lines 5-11).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Traub to include receive an order to buy the financial instrument; receive an order to sell the financial instrument, determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument, determine a price of the financial instrument based at least in part on the imbalance and execute a trade on the financial instrument at the determined price taught by Shepherd in order to match and trade financial instruments.

Further when buyers and sellers are engaged in a trade of item, the market price is the value of an asset on the price it would demand on an open market, which represent the price the asset the is being bought or sold taught by Shepherd in order to match and trade financial instruments.

Traub and Shepherd fail to explicitly teach revenue for a movie, and a financial instrument that represents the movie.

However a estimated revenue for a movie and a financial instrument that represents a movie would be representative of a revenue bond, because revenue bonds are issued by entities or institutions to finance different projects for example bridges, movies, and road projects, and the revenue generated (i. e, estimated revenue") from motorist using the bridge and paying tolls are committed to paying off the revenue bond, therefore financing a movie is no different than financing bridges because the fees (i. e, estimated revenue") that is paid by the patrons that attend the movie would be used in paying off the revenue bond that was used to finance the movie .

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Traub and Shepherd to include revenue for a movie and a financial instrument that represents a movie, because financing a movie is no different than financing bridges because the fees (i. e, estimated revenue") that is paid by the

patrons that attend the movie would be used in paying off the revenue bond that was used to finance the movie.

As per claims 193, Traub discloses wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to: attach a warrant with a strike price to the financial instrument (Note abstract and see column 1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 194, Traub discloses wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to: determine that the imbalance exceeds a threshold; and stop trading of the financial instrument based on the imbalance exceeding the threshold (Note abstract and see column 1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 195, Traub discloses in which determining the price of the financial instrument comprises:
determining a price increase for the financial instrument based on the imbalance (Note abstract and see column 1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 196, 82, Traub discloses in which determining the price of the financial instrument further comprises:
comparing a threshold to the price increase and increasing the price of the financial instrument when the price increase exceeds the threshold (Note abstract and see column 1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 197, Traub discloses in which determining the price of the financial instrument further comprises:
increasing a previous price of the financial instrument from a previous cycle by the price increase (Note abstract and see column 1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 198, Traub discloses in which determining the price of the financial instrument comprises:
determining a price decrease for the financial instrument based on the imbalance (Note abstract and see column 1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 199, Traub discloses in which determining the price of the financial instrument further comprises:

comparing a threshold to the price decrease and decreasing the price of the financial instrument when the price decrease exceeds the threshold (Note abstract and see column1 lines 29-34 and, column 6 lines 31-56 and column 7 lines 21-39).

As per claims 200, Traub discloses in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 201, Traub discloses in which the at least one computing device comprises the non-transitory tangible medium (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 202, Traub discloses in which the at least one computing device does not comprise the non-transitory tangible medium (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 203-204, Traub discloses an article of manufacture, comprising:
a non-transitory tangible medium storing instructions that, when executed by at least one computing device, cause the at least one computing device at least to:
determine an initial price of a financial instrument based at least in part on an estimated revenue, in which the financial instrument; receive an order to buy the financial instrument (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

Traub fails to explicitly receive an order to buy the financial instrument; receive an order to sell the financial instrument receive an order to sell the financial instrument, determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument, determine a price of the financial instrument based at least in part on the imbalance and execute a trade on the financial instrument at the determined price.

However Shepherd discloses the invention encompasses methods and apparatus enabling the management of risk relating to specified, yet unknown, future events by enabling entities (parties) to reduce their exposure to specified risks by constructing compensatory claim contract

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orders on yet-to-be-identified counter-parties, being contingent on the occurrence of the specified future events. The entities submit such orders to a 'system' which seeks to price and match the most appropriate counter-party, whereupon matched contracts are appropriately processed through to their maturity (see column 4 lines 13-67 and column 5 lines 1-24 and column 9 lines 41-55 and column 18 lines 5-11).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Traub to include receive an order to sell the financial instrument, determine an imbalance between a quantity of received buy orders and a quantity of received sell orders for the financial instrument, determine a price of the financial instrument based at least in part on the imbalance and execute a trade on the financial instrument at the determined price taught by Shepherd in order to match and trade financial instruments.

Further when buyers and sellers are engaged in a trade of item, the market price is the value of an asset on the price it would demand on an open market, which represent the price the asset the is being bought or sold taught by Shepherd in order to match and trade financial instruments.

Traub and Shepherd fail to explicitly teach a movie and a financial instrument that represents the movie.

However a estimated revenue for a movie and a financial instrument that represents a movie would be representative of a revenue bond, because revenue bonds are issued by entities or institutions to finance different projects for example bridges, movies, and road projects, and the revenue generated (i. e, estimated revenue") from motorist using the bridge and paying tolls are committed to paying off the revenue bond, therefore financing a movie is no different than financing bridges because the fees (i. e, estimated revenue") that is paid by the patrons that attend the movie would be used in paying off the revenue bond that was used to finance the movie .

As per claims 205, Traub discloses further comprising the at least one computing device (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 206, Traub discloses wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to, attach a warrant with a strike price to the financial instrument (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 207, Traub discloses wherein the instructions, when executed by the at least one computing device, further cause the at least one computing device at least to:
determine that the imbalance exceeds a threshold and stop trading of the financial instrument based on the imbalance exceeding the threshold (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 208, Traub discloses in which determining the price of the financial instrument comprises:
determining a price increase for the financial instrument based on the imbalance (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 209, Traub discloses in which determining the price of the financial instrument further comprises:
comparing a threshold to the price increase and increasing the price of the financial instrument when the price increase exceeds the threshold (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 210, Traub discloses in which determining the price of the financial instrument further comprises:
increasing a previous price of the financial instrument from a previous cycle by the price increase (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 211, Traub discloses in which determining the price of the financial instrument comprises:
determining a price decrease for the financial instrument based on the imbalance (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 212, Traub discloses in which determining the price of the financial instrument further comprises:
comparing a threshold to the price decrease and decreasing the price of the financial instrument when the price decrease exceeds the threshold (Note abstract and see column1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

As per claims 213, Traub discloses in which determining the price of the financial instrument further comprises:

decreasing a previous price of the financial instrument from a previous cycle by the price decrease (Note abstract and see column 1 lines 29-34 and column 6 lines 31-56 and column 7 lines 21-39).

Conclusion
RESPONSE TO ARGUMENTS

5. Applicant's arguments filed 11/17/10 has been fully considered but they are moot in view of new grounds of rejections.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hani M. Kazimi/
Primary Examiner, Art Unit 3691

CG

Nov 20, 2010